



STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board

Pete T. Cenarrusa, Secretary of State

Alan G. Lance, Attorney General

J. D. Williams, State Controller

Marilyn Howard, Superintendent of Public Instruction

Winston A Wiggins, Secretary to the Board

Final Minutes Regular Land Board Meeting June 11, 2002

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, June 11, 2002 in Boise, Idaho. The meeting began at 9:05 a.m. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Attorney General Alan G. Lance

Honorable Controller J. D. Williams

Secretary to the Board Winston A Wiggins

Secretary of State Pete T. Cenarrusa and Superintendent of Public Instruction Marilyn Howard were absent from this meeting.

• **CONSENT AGENDA**

Director Wiggins provided background information on the Consent Agenda items.

Controller J. D. Williams requested that Agenda Item #5 be deferred. No objection was voiced.

A motion was made by Attorney General Lance to approve the Consent Agenda, with Agenda Item #5 deferred. Controller Williams seconded the motion. The motion carried on a vote of 3-0, with Secretary of State Cenarrusa and Superintendent Howard being absent for this vote.

1. Director's Report – approved

- A. Interest Rate on Departmental Transactions – May 2002
- B. Bureau of Real Estate, Land Sale Section, Official Transactions – May 2002
- C. Bureau of Real Estate, Easement Section, Official Transactions – May 2002
- D. Bureau of Range Management and Surface Leasing Official Transactions – May 2002
- E. Timber Sale Official Transactions – May 2002
- F. Timber Sale Activity Report – May 2002

2. Timber Sales – Staffed by Bob Helmer, Chief, Bureau of Forest Management – approved

- | | | |
|----------------------|-----------|-------|
| A. Oro-French Divide | CR-4-0716 | 2,855 |
| B. West Mill Creek | CR-5-0108 | 1,400 |
| C. Ridge Road | CR-6-0142 | 6,175 |

D. Johnny-Greenland	CR-6-0147	3,415
E. Williams Creek	CR-6-0155	4,935

3. Approval of the Payette Lakes Recreational Water and Sewer District Inclusion –
Staffed by Steven J. Schuster, Deputy Attorney General – approved

DEPARTMENT RECOMMENDATION: That the board approve and sign the Petition for Annexation to the Payette Lakes Recreational Water and Sewer District.

BOARD ACTION: Approved.

4. Request for Authority to Require an Operating Bond to Conduct Forest Practices (Mattson) –
Staffed by Ron Litz, Assistant Director, Forestry and Fire – approved

DEPARTMENT RECOMMENDATION: That Mr. Randy Mattson, and any other partnership, corporation or entity in which he has a legal interest, shall have an onsite inspection with the State prior to the commencement of any forest practice and shall be subject to the operating bond provisions of Idaho Code § 38-1306B. This requirement shall be valid for three years from the date of the Land Board's decision.

BOARD ACTION: Approved.

5. Riverbed Mineral Lease Renewal on the Salmon River (Mahurin) –
Staffed by Scott Nichols, Chief, Bureau of Surface and Mineral Resources – DEFERRED

DEPARTMENT RECOMMENDATION: That the board approve the lease renewal with specified terms and stipulations.

BOARD ACTION: This agenda item was deferred without objection.

6. Conceptual Approval to Enter into Discussions with Elmore County and Mr. Dave Mickelson Regarding Development of 20 Acres of Endowment Land –
Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: That the board authorize the department to conceptually enter into negotiations to develop the necessary agreements and an Amended Plat among the State, Mr. Mickelson and Elmore County for the Elk Valley Subdivision with the objective of platting and selling residential lots on the state parcel at public auction. The final documents will be presented to the board for final approval prior to seeking approval of the Elmore County Planning and Zoning Commission.

DISCUSSION: Controller Williams asked if it would be possible to consider a partnership with Mr. Mickelson wherein the state's portion would be land and Mr. Mickelson would handle the development. In this kind of an arrangement, a percentage of the profits would be divided. Director Wiggins stated that would be a possible alternative. However, this situation is unique in that some of the development work has already been completed. This particular piece of state land is isolated with the river on one side and private land bordering the other sides. The lots are selling for \$100,000 to \$125,000 each. In this case, it is logical to include the state land in the development.

BOARD ACTION: Approved.

7. Approval of Minutes – approved

- A. Regular Meeting – April 23, 2002
- B. Regular Meeting – May 14, 2002

• REGULAR AGENDA

8. Endowment Fund Investment Board Manager's Report – Presented by Charles G. Saums, Manager of Investments, EFIB; and Susan Tamagni, RBC Dain Rauscher

Susan Tamagni, RBC Dain Rauscher [formerly Sutro & Co.], provided background information through a PowerPoint presentation.

DISCUSSION: Controller Williams asked about the name "RBC Dain Rauscher." He asked if there had been a change. Ms. Tamagni stated she believes it was announced at one of the meetings that Royal Bank of Canada acquired Sutro. The firm operates independently as it has in the past. Sutro merged with Dain Rauscher and is still located in San Francisco with all of the same players present. Ms. Tamagni feels it is an improvement in many respects because Royal Bank of Canada is a AAA bank and capitalization has improved.

Controller Williams asked why there was an emphasis on a change of asset allocation to go more heavily into international instruments. Ms. Tamagni stated that the endowment is currently under rated on the international side relative to other endowments of a similar size. At this point, Ms. Tamagni believes international is an attractive alternative due to the difficulties in the U. S. markets. International adds to the diversification and protection of the portfolio. A slightly growth-oriented large cap international manager would be sought.

Controller Williams asked if the endowment being low in international, as compared to other endowments of similar size, was a recent occurrence. Ms. Tamagni stated that the endowment has always been low. A decision was made by the board at the initial asset allocation meeting to under allocate to international. There was a general fear of the sector. This was an entirely fixed income portfolio and no one wanted to increase the volatility precipitously. International became a comfortable option over time.

Controller Williams asked about an analysis of active versus passive management for the period the board has been involved with active management. Ms. Tamagni stated that the average amount paid to managers currently is between 45 and 50 basis points. Index products that might be considered would cost between 4 and 25 basis points. The overall performance since inception has beaten the index by about 75 basis points on an aggregate basis. When looking at equity only, in some respects a difficult analysis emerges showing that, in certain time periods, active management did not beat its index. But it is important to remember this has been an unusual period. At the time these managers were chosen, their performance was well above that of the indices for ten year, five year and three-year rolling periods. Controller Williams asked Ms. Tamagni for a report to that effect. Ms. Tamagni stated she would have a report but it would be an approximation.

Ms. Tamagni stated that the other side of the discussion is with indexing you do not take advantage of securities lending. Currently custodial fees are not being paid because of negotiations with Key Bank to borrow the securities. Ms. Tamagni stated Key Bank actually pays us a fee rather than us paying custodial fees. When you get into index products you obliterate that option so we would have to start paying custodial fees and an assumption would have to be made as to how much that would be. Controller Williams asked Ms. Tamagni to lay out what that would be. He stated other states tend to use index funds. Controller Williams noted that there is a recommendation to increase the index and decrease some of the other pieces of the pie. He advised Ms. Tamagni that he does want that analysis.

Attorney General Lance asked Ms. Tamagni if Sutro was acquired by Dain Rauscher. Ms. Tamagni stated Sutro was acquired by Royal Bank of Canada and merged with Dain Rauscher, one of their subsidiaries. Attorney General Lance asked if the board were to renew a contract, whom would they be contracting with. Ms. Tamagni stated Royal Bank of Canada or RBC Dain, which is the name of the merged entity.

No action was taken on this agenda item.

9. Western Watershed Project Lease G-8900 – Request to Install a Riparian Fence on Lake Creek – Staffed by Scott Nichols, Chief, Bureau of Surface and Mineral Resources

DEPARTMENT RECOMMENDATION: That the board reject WWP's request to fence state land covered under lease G-8900 adjacent to Lake Creek and that the Special Provisions for the lease remain unchanged.

DISCUSSION: Attorney General Lance asked if the department is currently getting along well with the Bureau of Land Management. Mr. Biladeau responded that the department has a cooperative relationship with the BLM and the Forest Service on this allotment.

Controller Williams noted that the Department of Environmental Quality (DEQ) approved fencing for 319 money so it appears DEQ feels the fencing has merit. Mr. Biladeau referred to a letter from DEQ Director Steve Allred. DEQ had a certain pot of 319 money available. This project did not finish high on the list but, because money was available for all of the projects, this particular project was approved.

Governor Kempthorne asked if anyone, other than BLM, has expressed concern about the proposed fence. Mr. Biladeau stated the only other agency is the Department of Lands. Governor Kempthorne observed that the fencing would be paid for by WWP. Mr. Biladeau stated that is correct and WWP would receive some reimbursement on cost through the 319 money. Governor Kempthorne stated that at different times, WWP would lay the fence down and that WWP has indicated in the event they no longer have the lease, they would pay for the removal of the fence. Mr. Biladeau stated that is correct. Governor Kempthorne asked, other than the question of potential congregation on BLM land, are there any other concerns. Mr. Biladeau stated that congregation could lead to some damage to the areas along the fence. It could create water quality problems. However, those are things that can be monitored.

Governor Kempthorne suggested that this request might be a good pilot project. He finds it very interesting that one reason expressed for putting the fence in is to protect water quality and one of the reasons for not putting the fence in is to protect water quality. Two diametrically opposed reasons. Director Wiggins commented that the Governor has identified the conundrum. He stated that he has to rely on the expertise of his staff and that their feedback is confirmed by the BLM. The stream is in proper functioning condition and the trend is improving. Mr. Ingram has done a good job of managing the grazing on this allotment based on measurable criteria. In this case, there is a concern that approval of this request may, in fact, cause degradation to the stream course.

Governor Kempthorne asked if there could be a counter proposal that WWP would have half a mile of fencing and that all of the fencing would be contained within the state parcel. Director Wiggins stated it is his expectation that the same concern associated with the mile long fence would apply. There is likelihood that camping would still occur along the creek with only the location of potential impact changing. Governor Kempthorne stated that his point is the degradation would occur on the parcel being discussed and would not be imposed on the BLM parcel. Mr. Biladeau stated he is not familiar with the south side of the section but there are probably areas where a fence could be tied. There has been some concern raised that if you do not have it completely fenced – that if you just run a fence up to a steep area and tie it off – you might have livestock get around it. In that case they would certainly camp on the creek. But that is something else that would have to be monitored.

Governor Kempthorne stated the whole matter is very interesting. The argument is to put a fence up so the creek can be protected. The reason for denying the fence is that by putting a fence up, degradation of the creek may occur. Which is it?

Mr. Biladeau stated the department does believe that fencing sometimes is needed on creeks that are in a state of disrepair and that need protection. In this case, however, it is a management system that is working well. The creek is in good condition. Staff can see no need for fencing of this parcel. Governor Kempthorne stated he would concur if the state was the one being required to put in the fence. However, in this case the lessee will pay for the fence. Director Wiggins stated his concern is that if the fence goes up and there is degradation of the stream then the state becomes the primary responsible party. Governor Kempthorne asked about indemnification. Director Wiggins deferred to legal counsel. Attorney General Lance stated one of the Governor's questions was can we have provisions for removal of the fence. Mr. Biladeau stated he would look into that question.

Controller Williams commented if there is something that can be gained through a pilot project, the board ought to take a good look at it to assess its feasibility on state land. It is hard to ask the BLM to go a half mile each way. Controller Williams stated he visited the area four or five years ago. At that time, some erosion on the banks was visible but the creek was in good shape. He feels this request may have possibilities and that the board needs more information.

Governor Kempthorne stated he would be interested to see, for example, the fence going a half mile and that half mile section would be in the middle of the state parcel so no congregation would occur on the neighboring property. Reference was made to more sensitive areas, however, it is unknown if putting the fence in the middle of the parcel would cover those sensitive areas. The board needs to know more about the 319 money. What 319 provisions come into play should the board request that the fence be removed? Would that cause DEQ to withdraw their approval? Governor Kempthorne asked Mr. Biladeau to consider the options.

BOARD ACTION: This agenda item was deferred without objection.

- **INFORMATION AGENDA**

Director Wiggins briefed the board on the Information Agenda item. No Land Board action is required on the Information Agenda.

10. Conflicted Grazing Leases

- ❖ A motion was made by Attorney General Lance to resolve into Executive Session at 9:50 a.m. Controller Williams seconded the motion. The motion carried on a vote of 3-0, with Secretary of State Cenarrusa and Superintendent Howard being absent for this vote.

- **EXECUTIVE SESSION**

A. To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation [Idaho Code § 67-2345(1)(f)]

B. To Consider Personnel Matters [Idaho Code § 67-2345(1)(b)]

There being no further business before the board, the board resolved into Regular Session and adjourned at 10:53 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne

President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Pete T. Cenarrusa

Pete T. Cenarrusa
Secretary of State

/s/ Winston A Wiggins

Winston A Wiggins
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the July 9, 2002 regular Land Board meeting.